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EXAMINER

KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/827,358	Applicant(s) DUREAU ET AL.	
	Examiner Andrew Y. Koenig	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 and 58-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 and 58-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 18 April 2007 have been fully considered but they are not persuasive.

35 U.S.C. § 112

The applicant disagrees with the rejection under 35 U.S.C. § 112, second paragraph as being indefinite. The examiner is relying on MPEP 2173.05(p) (II) – directed to a product and process in the same claim. See also: A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. * > IPXL Holdings v. Amazon.com, Inc., 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005); <Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). The examiner maintains the position that the preamble of structure and limitations of method steps is improper.

35 U.S.C. § 103

The applicant argues that the processing unit of Inagaki does not configure itself in response to receiving a format definition, and thus does not meet the claim limitation of “configure said engine...” The examiner disagrees; as configuring an engine does not preclude the interpretation a processing unit executing a decoding software program (library) for decoding data. Whereas the examiner recognizes the applicant's arguments, the claims do not require the more specifics of how the engine is configured. The examiner notes that execution of different decoding software configure the

processor differently at least by the fact that the processor is performing different instructions.

Further, the applicant argues Inagaki fails to teach "responsive to receiving the format definition" in that Inagaki teaches downloading software beforehand and not in response to receiving the format definition. The examiner disagrees, and notes that the argument hinges upon the scope of "in response to receiving a format definition." It is clear from Inagaki that the software is downloaded beforehand and then executed. Given the broadest reasonable interpretation, this limitation is always met in that the system executes the software, which is after (in response) to receiving the format definition. The applicant's specification recognizes different scenarios, such as downloading on demand from the broadcast stream, downloaded from the Internet or point-to-point connection, or already cached in the viewer's set top box (pg. 41, ll. 9-11). Given the applicant's specification, the claim is not limited to "downloading on demand from the broadcast stream" as argued.

The applicant argues that Inagaki fails to teach a format definition indicative of a format of additionally received data. The examiner disagree; Inagaki teaches a header and data, both of which creates the format definition, wherein the header identifies the name of the library and attributes in combination with the data reads on a format definition.

The applicant appears to allude to a format as a syntax or semantics of the data, but this is not required as format is given the broadest reasonable interpretation in the

art, which does not preclude software code. As such the name of the library in combination with the code reads on a format definition.

The applicant further submits that there exist scenarios where the library name used to decode may change, but the format of the received data is the same. The examiner recognizes this characterization of format per se, but the examiner notes that the format definition (even with name change) is different. More importantly, there exists scenarios which are true, such as a new name and new decoding software.

The applicant argues that Inagaki does not "receive a format definition, wherein said format definition is indicative of a format of additionally received data." The examiner disagrees based upon the broad scope of additionally received data. Whereas the specification is drawn to the reception of SI information (additional information associated with broadcast programming), the claim merely requires additionally received data and does not preclude itself nor information to be executed using the format definition. Due to the scope, Inagaki teaches libraries for decoding a broadcast signal, which is additionally received data.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-43, 68, and 70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 70 are apparatus claims, based on the preamble, however the claim limitations are method steps. It is unclear based on the preamble and claim limitations whether the applicant is an apparatus claim or a method claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7, 42, 43, 58, 59, and 67 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,337,715 to Inagaki et al. (Inagaki).

Regarding claims 1 and 58, Inagaki teaches a receiver for processing data, said receiver comprising a generic data processing engine (fig. 7), operable to: receive a format definition, wherein said format definition is indicative of a format of additionally received data (col. 15, ll. 50-57), configuring said engine responsive to receiving the format definition (col. 15, ll. 36-49), and processing the additionally received data in

accordance with the format definition (col. 15, ll. 36-49: the library has the decoding software for decoding the additional information).

Regarding claim 2, Inagaki teaches the receiver receiving a broadcast including the received data (col. 15, ll. 61-67).

Regarding claim 3, Inagaki teaches the engine receiving the format definition from the broadcast (col. 15, ll. 61-67).

Regarding claim 4, Inagaki teaches the receiver receiving the broadcast including the data (col. 15, ll. 61-67).

Regarding claims 7 and 59, Inagaki teaches the definition including a software program, which inherently includes descriptions of semantics of the format in order to decode the particular format.

Regarding claims 42 and 67, Inagaki teaches television related information (col. 15, ll. 36-49).

Regarding claim 43, Inagaki teaches service information (col. 15, ll. 36-49).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-11, 26-27, and 59-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,337,715 to Inagaki et al. (Inagaki) in view of Program Guide for Digital Television ATSC Standard (ATSC).

Regarding claim 5, Inagaki teaches the receiver receiving the data, and teaches different transmission means, but is silent on receiving a multicast. ATSC teaches receiving a multicast including data and wherein the engine is further configured to receive the format definition from the multicast derived from a point-to-multipoint multicast of EPG data (see pg. 1, para. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by using multicast as taught by ATSC in order to provide different transport mediums to permit the user to access data.

Regarding claim 6, Inagaki teaches receiving the format definition, but is silent on receiving data via a multicast. ATSC teaches receiving a multicast including data and wherein the engine is further configured to receive the format definition from the multicast derived from a point-to-multipoint multicast of EPG data (see pg. 1, para. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by using multicast as taught by ATSC in order to provide different transport mediums to permit the user to access data.

Regarding claims 7-11 and 59-61, Inagaki is silent on the definition including a description of syntax, description of semantics, a semantic description associating at least one identifier with received data, wherein the syntax and semantics are described

in a first language, configured to produce an internal representation of the syntax and semantics. ATSC teaches a description of the syntax and semantics of the format, wherein the semantic description associated at least one identifier with the data, wherein the syntax and semantics are described in a first language, configured to produce an internal representation of the syntax and semantics (table 5.2 - pg. 7, table 5.5 - pg. 16, table 5.6 - pg. 18, table 5.7 - page 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by the definition including a description of syntax, description of semantics, a semantic description associating at least one identifier with received data, wherein the syntax and semantics are described in a first language, configured to produce an internal representation of the syntax and semantics as taught by ATSC in order to effectively define the protocol for sending data, thereby enabling the receiving device to decode the received data.

Regarding claims 26 and 27, Inagaki is silent on the syntax as a first language and the semantics as a second language, and producing an internal representation of the syntax and semantics. ATSC teaches a description of the syntax and semantics of the format, wherein the syntax and semantics are described in a first language and second language (as the claim does not require the languages to be different), configured to produce an internal representation of the syntax and semantics (table 5.2 - pg. 7, table 5.5 - pg. 16, table 5.6 - pg. 18, table 5.7 - page 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inagaki by the syntax as a first language and the semantics as a second

language, and producing an internal representation of the syntax and semantics as taught by ATSC in order to effectively define the protocol for sending data, thereby enabling the receiving device to decode the received data.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Y Koenig
Primary Examiner
Art Unit 2623

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